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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,303	09/28/2001	Matthew Whitehead	BAI525-520/01786	5038

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EXAMINER	
SHEPARD, JUSTIN E	
ART UNIT	PAPER NUMBER
2623	

NOTIFICATION DATE	DELIVERY MODE
07/09/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Office Action Summary	Application No.	Applicant(s)	
	09/966,303	WHITEHEAD, MATTHEW	
	Examiner	Art Unit	
	Justin E. Shepard	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 May 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4 and 9-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4 and 9-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *5/15/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/15/08 has been entered.

Response to Arguments

Applicant's arguments filed 5/15/08 have been fully considered but they are not persuasive.

Page 7, paragraph beginning with "The '112'":

The applicant argues that Barrett does not teach that the video data to be stored is received separately from the auxiliary data used to generate the EPG. The examiner is unable to find where in Barrett it states that the preview video data and the auxiliary data are transmitted together. The section of Barrett cited (column 9, lines 41-51) refers to massive amounts of video data being transmitted in the middle of the night when the television would not be in use, as the television would be unable to display programming during this time (column 9, lines 52-54). It is the examiner's interpretation of this passage that the only data being received by the unit is the video data, which would indicate that the auxiliary data is being transmitted separately.

The applicant also argues that Lawler does not teach the storage of video clip data in the device but only of the auxiliary data required to generate the EPG. The section of Lawler cited (column 6, lines 54-64) refers to the system checking for video data either in the EPG database (figure 5, part 102) or the memory of the station controller (figure 1, parts 20; figure 2, part 68). The examiner is interpreting this section as teaching that the video data is downloaded and stored in the local memory. While the examiner admits that the reference does not explicitly disclose downloading and storing, but it does disclose storing and Barrett is brought in to teach downloading and storing the video data.

Claim Objections

Claim 12 is objected to because of the following informalities: On page 4, line 12, the word user should be replaced with use as is found in claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one

skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The newly added limitations of a first and second time periods as found in the claim cannot be found in the specification. The claims will also be rejected with art if the applicant can point out where in the specification these limitations are found, in which case the 112 rejection will be withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler (US Patent 6,868,551) in view of Barrett in view of Klosterman.

Referring to claim 1, Lawler discloses a television system, said system comprising:

a broadcast data receiver (figure 1, part 20) for receiving data which is broadcast from a remote location (figure 1) and which includes video, audio and auxiliary data (column 3, lines 62-65; column 5, lines 61-67), processing said data to generate video, audio (column 4, lines 12-17) and auxiliary services via an on-screen display (figure 3B) and speakers connected with the broadcast data receiver (column 7, lines 30-32);

an electronic program guide which is generated from said auxiliary data on screen to provide information and facilitate user selection of programs for viewing at that instant or in the future (column 5, lines 61-67, 15-19, and 39-40); and

a storage means provided as a part of the broadcast data receiver (figure 2, part 68) in which data is downloaded and held in storage for subsequent retrieval and display upon the selection of a program from the electronic program guide (column 5, lines 42-50; column 6, lines 54-61) and to which a portion of the video and/or audio data relates (column 6, lines 62-64), the stored portions of data having identification data such that upon user selection to receive information on a program using the electronic program guide the broadcast data receiver identifies the identification data for the selected program (column 5, lines 42-50) and searches the for stored video and/or audio data with matching identification data (column 6, lines 62-64), and if found, processes the same to generate video and/or audio therefrom for said display (figure 5, box 130).

Lawler does not disclose a system wherein the storage means in the form of a hard disc memory; and wherein a plurality of portions of video and/or audio data are stored on the memory; said video and/or audio data to be stored is downloaded separately from said auxiliary data at designated off peak time according to when the broadcast data receiver is not in use by a user and when the broadcast data receiver is less likely to be in use for other functions; and

wherein said video and/or audio data is transmitted to the broadcast receiver in a single transport stream.

In an analogous art, Barrett teaches a system wherein the storage means in the form of a hard disc memory (column 4, lines 15-17); and wherein a plurality of portions of video and/or audio data are stored on the memory; said video and/or audio data to be stored is downloaded separately from said auxiliary data at designated off peak time according to when the broadcast data receiver is not in use by a user and when the broadcast data receiver is less likely to be in use for other functions (column 9, lines 41-51 and 63-65; Note: the applicant's original specification (page 7, second paragraph), it uses the middle of the night as an example of an off peak time, which the examiner interprets 3am as being falling into this time period).

At the time of the invention it would have been obvious for one of ordinary skill in the art to the use the hard drive and video downloading during off peak times taught by Barrett in the system disclosed by Lawler. The motivation would have been that hard disk storage devices offer large amounts of storage at a cheaper price than solid-state storage devices; and that downloading during off peak times saves on bandwidth consumption (column 9, lines 41-51).

Lawler and Barrett do not disclose a system wherein said video and/or audio data is transmitted to the broadcast receiver in a single transport stream.

In an analogous art, Klosterman teaches a system wherein said video and/or audio data is transmitted to the broadcast receiver in a single transport stream (column 2, lines 8-11).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the single transport stream taught by Klosterman to the system disclosed

by Lawler and Barrett. The motivation would have been that Klosterman teaches a system that cannot receive other data while the preview data is downloading, so it would have been well known in the art to transport this data as a single stream of data.

Referring to claim 2, Lawler discloses a television system according to claim 1 wherein said retrieval and display of said video and/or audio data from the storage means is in response to a user request for further information with respect to a particular program displayed on said electronic program guide (column 5, lines 42-50).

Referring to claim 3, Lawler discloses a television system according to claim 1 wherein a video and/or audio clip or trailer for a particular program is generated from said data retrieved from storage and shown to the user (column 6, lines 54-61).

Referring to claim 4, Lawler discloses a television system according to claim 3 wherein the user has the option, after or during viewing the clip or trailer, to select the program at that instant (column 5, lines 39-40) or in the future via said electronic program guide.

Referring to claim 10, Lawler discloses a television system according to claim 1 wherein said data video data being transmitted for the generation of the clips and trailers are shown in a portion of said display screen (figure 3B, box 94; column 5, lines 42-50).

Referring to claim 11, Lawler discloses a television system according to claim 1 wherein further auxiliary information is generated via said data stored in the storage means for retrieval upon the selection of a related program via said electronic program guide (column 5, lines 42-57).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Barrett and Klosterman as applied to claim 1 above, and further in view of Ludwig.

Referring to claim 9, Lawler and Barrett do not disclose a television system according to claim 1, wherein said video data being transmitted for the generation of clips and trailers is a low resolution.

In an analogous art, Ludwig teaches a television system according to claim 1, wherein said video data being transmitted for the generation of clips and trailers is a low resolution (column 78, lines 49-55).

At the time of the invention it would have been obvious for one of ordinary skill in the art to download the clips at lower resolutions, as taught by Ludwig, in the system disclosed by Lawler and Barrett. The motivation would have been to conserve bandwidth needed to transfer video files (Ludwig: column 58, lines 20-21).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Sciammarella in view of Barrett in view of Klosterman.

Referring to claim 12, Lawler discloses a television system, said system comprising:

a broadcast data receiver (figure 1, part 20) for receiving data broadcast from a remote location (figure 1) including video, audio and auxiliary data (column 3, lines 62-65; column 5, lines 61-67) for processing the data to generate video, audio (column 4, lines 12-17) and auxiliary services via an on-screen display (figure 3B) and speakers connected with the broadcast data receiver (column 7, lines 30-32);

an electronic program guide generated from said auxiliary data to provide information and facilitate user selection of programs for viewing at that instant or in the future (column 5, lines 61-67, 15-19, and 39-40); and

a storage means provided as a part of the broadcast data receiver (figure 2, part 68) in which a sufficient portion of the video and/or audio data for a particular clip or trailer is downloaded separately from said auxiliary data (column 5, lines 61-67; column 6, lines 1-4; column 6, lines 54-61) at a designated time and is held in the storage means stored for subsequent retrieval and display (column 6, lines 54-61), upon user selection of a program from the electronic program guide to which a portion of the stored video and/or audio data relates, the broadcast data receiver refers to portions of the downloaded video and/or audio data stored in the storage means to identify identification means for the selected program (column 5, lines 42-50) and then searches for the appropriate identification means for a portion of data in the storage means which matches the selected program and when found, a portion of the data is processed to

cause the clip or trailer for that particular program to be generated on the display screen for viewing by a user (column 6, lines 62-64).

Lawler does not disclose a system wherein the storage means in the form of a hard disc memory and wherein a preview from each program in the following time period in the electronic program guide is downloaded at a designated off peak time, when the broadcast data receiver is not in use by a user and the broadcast data receiver is less likely to be in user for other functions; and

wherein said video and/or audio data is transmitted to the broadcast receiver in a single transport stream.

In an analogous art, Sciammarella teaches a system wherein the storage means in the form of a hard disc memory (column 4, lines 41-42) and wherein a preview from each program in the following time period in the electronic program guide is downloaded (column 4, lines 3-8; figure 8A; Note: the time period is being interpreted as the current programs being broadcast).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the hard disk and time period taught by Sciammarella to the system disclosed by Lawler. The motivation to use the hard drives would have been that hard disk storage devices offer large amounts of storage at a cheaper price than solid-state storage devices. The motivation to use the period would have been that only downloading a finite number of previews for programs would keep down the storage costs.

Lawler and Sciammarella do not disclose a system wherein the previews are downloaded at a designated off peak time, when the broadcast data receiver is not in use by a user and the broadcast data receiver is less likely to be in user for other functions; and

wherein said video and/or audio data is transmitted to the broadcast receiver in a single transport stream.

In an analogous art, Barrett teaches a system wherein the previews are downloaded at a designated off peak time, when the broadcast data receiver is not in use by a user and the broadcast data receiver is less likely to be in user for other functions (column 9, lines 41-51 and 63-65).

At the time of the invention it would have been obvious for one of ordinary skill in the art to download the clips at designated time intervals, as taught by Barrett, in the system disclosed by Lawler and Sciammarella. The motivation would have been to conserve bandwidth needed to transfer video files (Barrett: column 4, lines 15-17), as while the system would be in use the system would be downloading normal broadcast television.

Lawler, Sciammarella and Barrett do not disclose a system wherein said video and/or audio data is transmitted to the broadcast receiver in a single transport stream.

In an analogous art, Klosterman teaches a system wherein said video and/or audio data is transmitted to the broadcast receiver in a single transport stream (column 2, lines 8-11).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the single transport stream taught by Klosterman to the system disclosed by Lawler, Sciammarella and Barrett. The motivation would have been that Klosterman teaches a system that cannot receive other data while the preview data is downloading, so it would have been well known in the art to transport this data as a single stream of data.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Barrett in view of Rodriquez.

Referring to claim 13, Lawler discloses a television system, said system comprising:

a broadcast data receiver (figure 1, part 20) for receiving data which is broadcast from a remote location (figure 1) and which includes video, audio and auxiliary data (column 3, lines 62-65; column 5, lines 61-67), processing said data to generate video, audio (column 4, lines 12-17) and auxiliary services via an on-screen display (figure 3B) and speakers connected with the broadcast data receiver (column 7, lines 30-32);

an electronic program guide which is generated from said auxiliary data on screen to provide information and facilitate user selection of programs for viewing at that instant or in the future (column 5, lines 61-67, 15-19, and 39-40); and

a storage means provided as a part of the broadcast data receiver (figure 2, part 68) in which data is downloaded and held in storage for subsequent retrieval and display upon the selection of a program from the electronic program guide (column 5,

lines 42-50; column 6, lines 54-61) and to which a portion of the video and/or audio data relates (column 6, lines 62-64), the stored portions of data having identification data such that upon user selection to receive information on a program using the electronic program guide the broadcast data receiver identifies the identification data for the selected program (column 5, lines 42-50) and searches the for stored video and/or audio data with matching identification data (column 6, lines 62-64), and if found, processes the same to generate video and/or audio therefrom for said display (figure 5, box 130).

Lawler does not disclose a system wherein the storage means in the form of a hard disc memory; and wherein a plurality of portions of video and/or audio data are stored on the memory; said video and/or audio data to be stored is downloaded separately from said auxiliary_ data at designated times according to when the broadcast data receiver is not in use by a user; and

an electronic program guide relating to a first time period, and stored video and/or audio data that relates within a second time period, said second time period being shorter than and falling within said first time period.

In an analogous art, Barrett teaches a system wherein the storage means in the form of a hard disc memory (column 4, lines 15-17); and wherein a plurality of portions of video and/or audio data are stored on the memory; said video and/or audio data to be stored is downloaded separately from said auxiliary data at designated times according to when the broadcast data receiver is not in use by a user (column 9, lines 41-51).

At the time of the invention it would have been obvious for one of ordinary skill in the art to the use the hard drive and video downloading during off peak times taught by Barrett in the system disclosed by Lawler. The motivation would have been that hard disk storage devices offer large amounts of storage at a cheaper price than solid-state storage devices; and that downloading during off peak times saves on bandwidth consumption (column 9, lines 41-51).

Lawler and Barrett do not disclose a system with an electronic program guide relating to a first time period, and stored video and/or audio data that relates within a second time period, said second time period being shorter than and falling within said first time period.

In an analogous art, Rodriguez teaches a system with an electronic program guide relating to a first time period, and stored video and/or audio data that relates within a second time period, said second time period being shorter than and falling within said first time period (column 21, lines 35-38; column 21 line 66 to column 22, line 8).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the time periods taught by Rodriguez to the system disclosed by Lawler and Barrett. The motivation would have been that preview data is storage intensive, but is only valid for a short amount of time, so it would be advantageous to store the data only for longer programs (Rodriguez: column 21, line 66 to column 22, line 8).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art Unit 2623

JS